

DOCKETED

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FILED

OCT 19 1973

H. STUART CUNNINGHAM
At o'clock
CLERK

ALLIED LEISURE INDUSTRIES, INC.,

Plaintiff,

v.

MIDWAY MANUFACTURING CO.,

Defendant.

Civil Action No.

73 C 2682

AFFIDAVIT OF HENRY S. ROSS

HENRY S. ROSS, being duly sworn, states:

1. I am Secretary-Treasurer of Midway Manufacturing Co., Defendant, hereinafter called MIDWAY, and share the duties of chief operating officer with Mr. Marcine Wolverton, President of Midway. Together, Mr. Wolverton and I have charge of all activities of the Company including the design and manufacture of the Company's products.

2. I have examined the Complaint and accompanying documents including the Affidavit's of Messrs. Gerstman and Olger and noted certain statements of fact and/or conclusions of such documents which I believe are false and may mislead the Court.

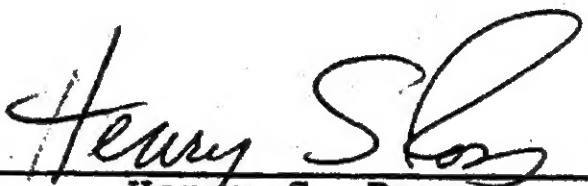
3. With respect to the charge that MIDWAY copied any drawings of Allied Leisure Industries, Inc., Plaintiff, hereinafter called ALLIED, neither I nor, to the best of my knowledge, anyone acting on behalf of MIDWAY has ever seen, photographed or copied any drawing of any printed circuit board of ALLIED.

4. In my experience, all TV tennis games such as the two and four player ping pong games here in question have similar designs and, because of this, printed circuit boards for use in such games follow the same logic techniques and general circuit arrangements. The printed circuit board for MIDWAY'S four player ping pong game was designed by the Engineering Department of Midway using original art work prepared in that Department and based on the printed circuit board used previously in the MIDWAY two player game.

5. With respect to statements about pricing, I have been informed by Midway Distributors of prices paid for ALLIED ping pong games. According to this information, ALLIED'S price structures including discounts on quotas has resulted in the net price of ALLIED'S four player game being substantially the same as or lower than the net price of MIDWAY'S four player game.

6. To my knowledge, there are eleven companies including MIDWAY and ALLIED now manufacturing four player ping pong games using printed circuit logic boards of the type used by MIDWAY and ALLIED.

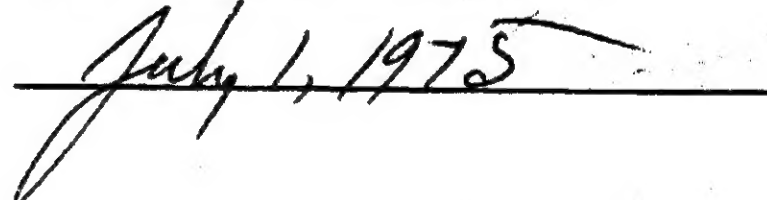
7. If MIDWAY is restrained from continuing the manufacture of its four player ping pong game, the company will be irreparably and immediately damaged in the various ways set forth in the accompanying affidavit of Malachy Hannigan, Comptroller of MIDWAY.


Henry S. Ross

Subscribed and sworn to before me this 19th day of
October, 1973.


Notary Public

My Commission Expires:


July 1, 1975